



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/121,849	07/24/98	GARFIELD	R SCH1237DI

HM12/0902  
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EXAMINER

LILLING, H

ART UNIT PAPER NUMBER

1651

6

DATE MAILED: 09/02/99

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on August 9, 1999

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-33 is/are pending in the application.

Of the above, claim(s) 1-13, 15-16, 20-27, 30, 32-33 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 14, 17-19, 28-29, 31 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-33 are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Sent to 09/121,849

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

1. Receipt is acknowledged of the election filed August 09, 1999.

2. Claims 1-33 are present in the instant application.

3. Applicant has elected Invention II, Claims 14-21 and 28-31 drawn to a pharmaceutical composition, classified in Class 514, subclass 310 and the species nitric oxide donor-nitroglycerin and the species cyclooxygenase inhibitor-aspirin.

Claims 1-13, 22-27 and 32-33, (Invention I), drawn to a method of treating preeclampsia, classified in Class 514, subclass 310 have been withdrawn from consideration.

Claims 15-16, 20, 21 and 30 drawn to the non-elected species have also been withdrawn.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 17-19, 28-29 and 31 are rejected under 35 U.S.C. 102(a/b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fankhauser et al, U.S. 4,855,142 or Harrison et al U.S. 5,508,045.

Each of the references teaches a **pharmaceutical composition**, e.g. see Fankhauser et al, Table in Example 6, column 7 lines 49-50, that is considered to be within the scope of the broad claimed composition.

If there are any differences with respect to the ranges, ingredients etc., these differences would have been prima facie obvious to one of ordinary skill having the reference(s) in front of him absent unexpected or unobvious data.

5. No claim is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lilling whose telephone number is (703) 308-2034. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

H.J.Lilling: HJL  
(703) 308-2034  
Art Unit 1651  
September 02, 1999

*Herbert J. Lilling*  
**HERBERT J. LILLING**  
**PATENT EXAMINER**  
**GROUP 1600 ART UNIT 1651**